

ARTICLE 2.

LICENSES.

§ 34-21-20. Required generally.

In order to safeguard life and health, any person practicing or offering to practice professional nursing or practical nursing in this state, for compensation, shall hereafter be required to submit evidence that he or she is qualified so to practice and shall be licensed as hereinafter provided. After January 1, 1968, it shall be unlawful for any person not licensed under the provisions hereof to practice or offer to practice professional nursing, for compensation, in this state. After January 1, 1971, it shall be unlawful for any person not licensed under the provisions hereof to practice or offer to practice practical nursing, for compensation, in this state. It shall be unlawful for any person employed for compensation and not licensed under the provisions hereof to use any sign, card or device to indicate that such person is a professional registered nurse or a licensed practical nurse. (Acts 1965, No. 867, p. 1615, § 1.)

§ 34-21-21. License to practice professional nursing; use of title "registered nurse."

(a) An applicant for a license to practice professional nursing as a registered nurse shall submit to the board written evidence of qualification, verified by oath, that such applicant is of good moral character, holds a diploma from an accredited high school or, in the opinion of the board, the equivalent thereof, and has successfully completed an educational program in a school of nursing approved by the board.

(b) A license to practice professional nursing as a registered nurse may be obtained in the following manners:

(1) BY EXAMINATION. - The applicant shall be required to pass an examination on such subjects as the board may determine; and, upon successfully passing such examination, the board shall issue such applicant a license.

(2) BY ENDORSEMENT. - The board may issue a license to practice professional nursing as a registered nurse to an applicant who has been duly licensed as a registered nurse under the laws of another state, territory or foreign country, if, in the opinion of the board, such applicant meets the qualifications required of registered nurses in this state at the time of his or her graduation. There shall be no license to practice professional nursing granted by the previously known waiver method.

(3) BY TEMPORARY PERMIT. - The board may issue temporary permits to practice professional nursing to graduates of approved schools of nursing pending completion of licensing procedures; to qualified applicants pending licensure procedures under paragraph (2) of this subsection; and to those nurses licensed by other states who will practice in this state for a period of one year or less, subject to the discretion of the board.

(c) Any person who holds a license to practice professional nursing as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume or use such title or abbreviation or other words, letters, signs or devices to indicate that the person using same is licensed to

practice professional nursing as a registered nurse.

(d) Any person holding a license or certificate of original registration to practice nursing as a registered nurse, issued by the Alabama board of nurses' examiners and registration and which was valid on December 31, 1965, shall be eligible for licensing to practice professional nursing as a registered nurse under the provisions of this chapter. (Acts 1965, No. 867, p. 1615, § 15; Acts 1975, No. 427, p. 1024, § 1.)

§ 34-21-22. License to practice practical nursing; use of title "licensed practical nurse."

(a) An applicant for a license to practice practical nursing as a licensed practical nurse shall submit to the board written evidence of qualification, verified by oath, that said applicant is of good moral character, is a high school graduate and holds a diploma from an accredited high school or, in the opinion of the board, the equivalent thereof and has successfully completed an educational program of at least one year's duration in a school of practical nursing, approved by the board.

(b) A license to practice as a licensed practical nurse may be obtained in the following manners:

(1) BY EXAMINATION. - The applicant shall be required to pass an examination on such subjects as the board may determine; and, upon successfully passing such examination, the board shall issue such applicant a license.

(2) BY ENDORSEMENT. - The board may issue a license to practice practical nursing as a licensed practical nurse to an applicant who has been duly licensed as a licensed practical nurse (irrespective of the title or designation granted when such license was issued) under the laws of another state, territory or foreign country, if, in the opinion of the board, such applicant meets the requirements for licensed practical nurses in this state at the time of his or her graduation. There shall be no license to practice practical nursing granted by the previously known waiver method.

(3) BY TEMPORARY PERMIT. - The board may issue temporary permits to practice practical nursing as a licensed practical nurse to graduates of approved schools of practical nursing pending the completion of licensing procedures in Alabama and to qualified applicants pending licensing procedures under paragraph (2) of this subsection.

(c) Any person who holds a license to practice practical nursing as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume or use such title or abbreviation or any other words, letters, signs or devices to indicate that the person using the same is licensed to practice practical nursing as a licensed practical nurse.

(d) Any person holding a license or certificate of original registration to practice practical nursing as a licensed practical nurse, issued by the Alabama board of nurses' examiners and registration and issued by said board and which was valid on December 31, 1965, shall hereafter be eligible for licensing to practice practical nursing as a licensed practical nurse under the provisions of this chapter. (Acts 1965, No. 867, p. 1615, § 6; Acts 1975, No. 427, p. 1024, § 1; Acts 1983, No. 83-642, p. 989, § 5.)

§ 34-21-23. Renewal of license; continuing education.

- (a) The license of every professional nurse licensed under the provisions of this chapter shall be renewed biennially, and the term of the license shall be two years. Applicants for renewal shall apply for and complete the renewal application and forward same to the board, along with the renewal fee, during the renewal period that shall from time to time be specified by the board. The board shall examine and verify the accuracy of the application and, if in order, shall issue a renewal receipt for a license period of two years.
- (b) The license of every practical nurse licensed as a licensed practical nurse under the provisions of the chapter shall be renewed biennially, and the term of the license shall be two years. Applicants for renewal shall apply for and complete the renewal application and forward same to the board, along with the renewal fee, during the renewal period that shall from time to time be specified by the board. The board shall examine and verify the accuracy of the application and, if in order, shall issue a renewal receipt for a license period of two years.
- (c) Any person practicing nursing who allows his or her license to lapse by failing to renew, as hereinafter provided, may be reinstated and licensed by the board upon satisfactory explanation of such failure and upon payment of the required fees. The board is hereby authorized under its rule-making powers to provide for an inactive license status for licensees under this chapter and to collect such fees as the board determines for such inactive license.
- (d) It shall be unlawful for any person to practice professional nursing in this state during the time his or her license to practice has lapsed, and such person shall be subject to the penalties of this chapter. It shall be unlawful for any person to practice practical nursing in this state during the time his or her license so to practice has lapsed, and such person shall be subject to the penalties of this chapter.
- (e) A nurse not actively practicing professional nursing in Alabama, or not actively practicing practical nursing in Alabama, shall not be required to renew his or her license; but such person shall, prior to resuming the practice of professional nursing, or the practice of practical nursing, submit evidence of continued competence satisfactory to the board and secure a renewal license before reengaging in the active practice of professional nursing or in the active practice of practical nursing, as the case may be.
- (f) The board shall adopt a continuing education program by October 1, 1991. After said date, successful completion of said continuing education requirements shall be a requisite for license renewal.
- (g) Provided, however, under the provisions of this section, continuing education shall not result in a passing or failing grade. (Acts 1965, No. 867, p. 1615, § 7; Acts 1975, No. 427, p. 1024, § 1; Acts 1983, No. 83-642, p. 989, § 6; Acts 1989, No. 89-243, p. 349, §§ 3, 4.)

§ 34-21-24. Fees and charges.

The board shall set the fees and charges annually for the services under this chapter. (Acts 1965, No. 867, p. 1615, § 8; Acts 1975, No. 427, p. 1024, § 1; Acts 1983, No. 83-642, p. 989, § 7.)

§ 34-21-25. Denial, suspension or revocation of license; administrative fines; voluntary disciplinary alternative program.

(a) For disciplinary purposes, the board may adopt, levy, and collect administrative fines not to exceed \$1,000 per violation and may institute any legal proceedings necessary to effect compliance with this chapter against its licensees.

(b) The board may also deny, revoke, or suspend any license issued by it or to otherwise discipline a licensee upon proof that the licensee: is guilty of fraud or deceit in procuring or attempting to procure a license; has been convicted of a felony; is guilty of a crime involving moral turpitude or of gross immorality that would tend to bring reproach upon the nursing profession; is unfit or incompetent due to the use of alcohol, or is addicted to the use of habit-forming drugs to such an extent as to render him or her unsafe or unreliable as a licensee; has been convicted of any violation of a federal or state law relating to controlled substances; is guilty of unprofessional conduct of a character likely to deceive, defraud, or injure the public in matters pertaining to health or has willfully or repeatedly violated any of the provisions of this article, as defined by board rules and regulations. The board may refrain from or delay taking disciplinary action under this subsection if a licensee can be voluntarily treated or rehabilitated pursuant to subsection (j) of this section.

(c) Whenever a written complaint is made to the board that a person has committed any of the acts or come within any of the provisions enumerated in subsection (b), the board shall investigate the complaint and may bring an action in its own name to hear and determine the complaint. The hearing shall be held in Montgomery, Alabama. The person whose qualification is under consideration shall have not less than 20 days' written notice of the time and place of the initial hearing, and the notice shall be accompanied by a copy of the complaint. The notice may be served upon the accused person by any sheriff of the State of Alabama. If the accused person is out of the state, evades service, or cannot be served in person, then service may be made by mailing, by registered or certified mail, the notice and a copy of the complaint to the accused person at his or her last known post-office address in this state, and the return shall show that service has been made in this manner.

(d) At the hearing, the complainant, the person whose qualification is under consideration, and any other person permitted by the board, shall have the right to introduce all oral or written testimony, or both, as the board deems relevant to the issues involved, and the right to be heard in person or by counsel, or both. The board may permit the complaint to be amended, but no amendment shall be permitted which is not germane to the charge or charges sought to be amended or which materially alters the nature of any offense charged. The board may determine all questions as to the sufficiency of the complaint, procedure, and admissibility and weight of evidence. If the person whose qualification is under consideration is absent, the hearing may proceed in his or her absence.

(e) Any accused person, complainant, or other party and the board may subpoena witnesses or pertinent records for the hearing, and those subpoenas may be served by any sheriff of the State of Alabama. Witnesses may be sworn by the president of the board or by the person discharging the duties of the president. Witnesses testifying at a hearing shall upon discharge as a witness be paid by the party requesting the subpoena an amount

not to exceed the per diem expense allowed to Alabama state employees for in-state travel and the actual cost of transportation to and from the place of the hearing, not to exceed the mileage rate allowed to Alabama state employees for in-state travel.

(f) Evidence may also be taken by deposition, and the law and practice as to depositions in circuit courts shall be followed in all reasonable respects.

(g) If the accused person is found guilty of the charges, the board may refuse to issue a license, may revoke or suspend a license, or may otherwise discipline a licensee. A revoked license may be considered for reinstatement after one year in accordance with board rules.

(h) Any person whose license is ordered suspended or revoked may appeal to the circuit court or a court of like jurisdiction of Montgomery County, from any order of the board under this section, within 30 days from date of the decision of the board. The trial of appeals shall be conducted in like manner, as nearly as may be, as provided for in the Alabama Administrative Procedure Act.

(i) Any organization, registered nurse, licensed practical nurse, or other person who in good faith reports information to the board alleging that any person licensed or applying for a license to practice nursing may be guilty of the acts, offenses, or conditions set out in Section 34-21-7 or subsection (b) of this section, shall not be liable to any person for any statement or opinion made in that report.

(j) Not later than October 1, 1994, the board shall establish a voluntary disciplinary alternative program to promote early identification, intervention, treatment, and rehabilitation of any licensed nurse whose competence is found to be impaired or compromised because of the use or abuse of drugs, alcohol, controlled substances, chemicals, or other substances or as a result of a physical or mental condition rendering the person unable to meet the standards of the nursing profession. The intent of the program is to provide a voluntary alternative to traditional disciplinary actions.

(1) When a registered nurse or licensed practical nurse voluntarily seeks treatment for use or abuse of drugs, controlled substances, alcohol, chemicals, or other substances, or has a physical or mental condition that would render the individual unable to meet the standards of the nursing profession, the board may refrain from taking disciplinary action under subsection (b) if it determines that the licensee can be treated or rehabilitated effectively and that there is no danger to the public. Upon voluntarily seeking treatment, the licensee is subject to the requirements of the disciplinary alternative program established by the board.

(2) The board may adopt and revise rules and regulations, and may adjust the license renewal fee as necessary to implement this subsection.

(3) The board may appoint an advisory council for the disciplinary alternative program pursuant to Section 34-21-3.

(4) The board may contract with specially qualified persons or corporations, or both, to assist it in administering the disciplinary alternative program.

(5) The board shall establish by rule criteria for eligibility to participate in the disciplinary alternative program and requirements for successful participation in and completion of the program.

(6) All records of a licensee who successfully completes the disciplinary alternative program shall be confidential, shall not be subject to public disclosure, and shall not be available for court subpoena or for discovery proceedings. The records of a licensee who

fails to comply with the program agreement or who leaves the state prior to the successful completion of the program shall not be deemed confidential.

(7) Nothing in this subsection shall limit the authority of the board to discipline an impaired individual subject to its jurisdiction. (Acts 1965, No. 867, p. 1615, § 11; Acts 1983, No. 83-642, p. 989, § 8; Acts 1989, No. 89-243, p. 349, § 3; Acts 1993, No. 93-183, p. 272, § 3.)

§ 34-21-26. Practice of nursing by unlicensed persons declared public nuisance; injunctive relief.

After January 1, 1968, the practice of professional nursing by any person who has not been issued a license under the provisions of this article, or whose license has been suspended, revoked or has expired, is hereby declared to be inimical to the public welfare and to constitute a public nuisance. After January 1, 1971, the practice of practical nursing by any person who has not been issued a license under the provisions of this article, or whose license has been suspended, revoked or has expired, is hereby declared to be inimical to the public welfare and declared to be a public nuisance. After January 1, 1968, the board of nursing of the state of Alabama may apply to any court of competent jurisdiction for an injunction to enjoin any person from practicing professional nursing, who has not been issued a license to practice professional nursing or whose license therefor has been suspended or revoked or has expired, and after January 1, 1971, the board of nursing of the state of Alabama may apply to any court of competent jurisdiction for an injunction to enjoin any person from practicing practical nursing who has not been issued a license to practice practical nursing or whose license therefor has been suspended or revoked or has expired.

Injunctions under this section shall be applied for in accordance with the civil remedies and procedures of the state of Alabama under article 10 of chapter 6 of Title 6 of this Code and under the Alabama Rules of Civil Procedure.

Applications for injunctions hereunder shall be in addition to and not in lieu of all penalties and other remedies provided for in this chapter. (Acts 1965, No. 867, p. 1615, § 14.)